



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,238	03/26/2004	Anthony Louis Moffa	04-40126-US	8999
26345 7590 12/17/2008 GIBBONS P.C. ONE GATEWAY CENTER NEWARK, NJ 07102				
EXAMINER MAYO, TARA L				
ART UNIT 3671		PAPER NUMBER		
NOTIFICATION DATE 12/17/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

thibbits@gibbonslaw.com
abriggs@gibbonslaw.com
IPDocket@gibbonslaw.com

Office Action Summary

Application No.

10/811,238

Applicant(s)

MOFFA ET AL.

Examiner

TARA L. MAYO

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 6, 7, 8, 9, 10, 13, 18, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turpin (U.S. Patent No. 3,351,959) in view of Brainerd, Jr. et al. (U.S. Patent No. 5,033,563 A).

Turpin '959, as best seen in Figure 1, shows a stretcher supporter comprising:
with regard to claim 1,

an open frame (the combination of elements 11 and 12);

Art Unit: 3671

a stretcher attachment element (17) that securely attaches a patient support to said open frame;

an adjustable lifting point (the intersection of elements 11 and 12) connected to and suspending said open frame; and

a shiftable, rotatable column (12); and

with regard to claims 6 and 7,

wherein said open frame comprises two attachment points in the form of hooks (15);

with regard to claim 9,

wherein said open frame is composed of metal; and

with regard to claim 10,

wherein said open frame comprises cable (10).

Turpin '959 fails to teach:

a stretcher; and

each of the stretcher attachment elements having an apex formed with an opening that engages the center rail preventing rotation of the stretcher element with respect to the center rail.

Brainerd, Jr. et al. '563, as best seen in Figure 1, show a stretcher supporter comprising a stretcher (14) and a pair of stretcher attachment elements (13), each stretcher attachment element having an apex formed with an opening that engages a center rail (12) preventing rotation of the stretcher element with respect to the rail.

With regard to claim 1, it would have been obvious to one having ordinary skill in the art at the time of invention to modify the device disclosed by Turpin '959 such that it would include a stretcher as taught by Brainerd, Jr. et al. '563 instead of a seat (16) to provide means for supporting a patient on the lift device in a supine position.

With regard to claims 1 and 8, it would have been obvious to one having ordinary skill in the art at the time of invention to modify the device taught by Turpin '959 such that the attachment elements would be shaped and secured to a center rail as taught by Brainerd, Jr. et al. '563, since the configuration was known at the time of invention and one having ordinary skill in the art would have had a reasonable expectation of success.

With regard to claims 13, 18, 19 and 20, the structural limitations of the claimed method are taught by the combination of Turpin '959 and Brainerd, Jr. et al. '563.

4. Claims 2 through 5, 11, 12 and 14 through 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turpin (U.S. Patent No. 3,351,959) in view of Brainerd, Jr. et al. (U.S. Patent No. 5,033,563 A) as applied above, and further in view of Fernie et al. (U.S. Patent No. 6,938,285 B2).

The combination of Turpin '959 and Brainerd, Jr. et al. '563 fails to teach the adjustable lifting point comprising a plunger mechanism.

Fernie et al. '285, as best seen in Figure 6, show a stretcher supporter comprising:
an open frame (28):

Art Unit: 3671

a stretcher attachment element (20) that securely attaches a stretcher (18) to the open frame;

an adjustable lifting point (combination of elements 24 and 26); and

a shiftable, rotatable column (34);

wherein the adjustable lifting point comprises a plunger mechanism (the combination of elements 34d);

wherein the adjustable lifting point is adjusted by an electrical motor (inherent to use of controls);

wherein the adjustable lifting point is controlled by a computing device (36).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the apparatus taught by Turpin '959 and Brainerd, Jr. et al. '563 such that it would include the plunger mechanism of Fernie et al. '285, since the same would have merely required the addition of a known element to an apparatus in a shared art and one having ordinary skill would have had a reasonable expectation of success.

With regard to claim 3, Fernie et al. '285, as seen in Figure 1, show the plunger mechanism comprising a plurality of holes arranged in series along element 34a, and further teach elements 34a and 34d being adjustably engaged (col. 6, lines 19 through 21). The prior art fails, however, to expound upon the means of adjusting the two elements. Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify the device disclosed by the combination of Turpin '959, Brainerd, Jr. et al. '563 and Fernie et al. '285 such that it would further include a spring loaded pin

Art Unit: 3671

positionable within anyone of the plurality of holes, since the Examiner takes Official Notice of the use of spring loaded pins in combination with a series of holes for securing the position of one element relative to another, wherein the one element is slidable relative to the other element.

With regard to claim 4, it would have been obvious to one having ordinary skill in the art at the time of invention to space the holes of the device taught by the combination of Turpin '959, Brainerd, Jr. et al. '563 and Fernie et al. '285 about one inch apart since Applicant has not shown that the particular spacing recited in the claim is critical or provides an unexpected result. As such, the limitation is met by the device disclosed by the prior art combination which is capable of being manufactured to the claimed dimensions.

With regard to claim 5, Applicant's recitation of a constricting pressure mechanism is met by the spring loaded pin as addressed in the rejection of claim 3.

With regard to claims 14 through 17, the structural limitations of the claimed method are taught by the combination of Turpin '959, Brainerd, Jr. et al. '563 and Fernie et al. '285.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TARA L. MAYO whose telephone number is (571)272-6992. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3671

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TARA L MAYO/
Primary Examiner, Art Unit 3671

tlm
08 December 2008